

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-12297-RWZ

SCOTT M. EPSTEIN

v.

C.R. BARD, INC., FUTUREMED INTERVENTIONAL, INC.,
and CROSSBOW VENTURES, INC.

PLAINTIFF'S MOTION FOR LEAVE TO FILE A
REPLY TO BARD'S OPPOSITION TO PLAINTIFF'S MOTION FOR STAY

Plaintiff Scott M. Epstein (Plaintiff), by and through his undersigned attorneys hereby move this Court pursuant to Local Rule 7.1(b)(3) for leave to file their Reply to Bard's Opposition to Plaintiff's Motion for Stay that Bard should not be allowed to withdraw its previously given assent, the case is not complete, and that there is no able replacement counsel for Attorney Lambert and as reason therefore state the following:

1. On August 11, 2004, Bard assented to Plaintiff's Motion for Stay.
2. On August 18, 2004, a Scheduling Conference was held where this Court determined that it would rule on Plaintiff's Motion for Stay after filing of replies to currently pending motion for stay.
3. In light of Bard's assent of August 11, 2004, the only parties with outstanding replies to the motion for stay were Futuremed Interventional, Inc., and Crossbow Ventures, Inc.
4. On August 25, 2004 Futuremed Interventional, Inc., and Crossbow Ventures, Inc. filed their response to Plaintiff's Motion for Stay as expected.
5. On August 25, 2004 Bard filed a response to Plaintiff's Motion for Stay in direct contravention to their prior assent.
6. On August 25, 2004 Bard also filed a Motion and accompanying Memorandum in Support Thereof for Judgment on the Pleadings despite the pending Plaintiff's Motion for Stay.
7. Plaintiff believes this Reply will be of significant assistance to the Court in deciding Plaintiff's Motion for Stay.
8. The interests of justice and due process will be served by allowing the Plaintiff to file its Plaintiff's Motion for Stay.

9. There will be no delay because Plaintiff's Reply to Bard's Opposition to Plaintiff's Motion for Stay is attached hereto.

WHEREFORE, Plaintiff requests this Court to allow them to file and have the Court consider their attached Reply to Bard's Opposition to Plaintiff's Motion for Stay.

Dated: September 8, 2004

Respectfully Submitted,

Patrick D. Archibald

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorneys of record on September 8, 2004 by First Class Mail, Postage Pre-Paid to:

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